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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,807	12/11/2003	Shunpei Yamazaki	12732-187001 / US6799/685	5890
26171 7590 11/17/2008 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER YAMNITZKY, MARIE ROSE	
			ART UNIT 1794	PAPER NUMBER
			NOTIFICATION DATE 11/17/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/732,807	<b>Applicant(s)</b> YAMAZAKI, SHUNPEI	
	<b>Examiner</b> Marie R. Yamnitzky	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008 and 24 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 27-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,29,31,32,35,37,38,41,43,44,47,49,50,53 and 55 is/are allowed.
- 6) ☒ Claim(s) 27,28,30,33,34,36,39,40,42,45,46,48,51,52 and 54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>09 June 2008</u> . | 6) <input type="checkbox"/> Other: _____  |

1. This Office action is in response to applicant's amendment filed July 24, 2008, which amends the specification and claims 1, 27, 28, 30, 32-34, 36, 38-40, 42, 44-46, 48 and 50-54.

Claims 1 and 27-55 are pending.

2. This Office action is also in response to the IDS filed June 09, 2008, and the certified translation filed July 24, 2008 for applicant's foreign priority application JP 2002-361320 (December 12, 2002).

3. The rejection under 35 U.S.C. 112, 1<sup>st</sup> paragraph, as set forth in the Office action mailed March 25, 2008 is overcome by amendment.

The issues raised in the rejection under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, as set forth in the March 25<sup>th</sup> action are overcome by amendment, but the amendment raises new issues as noted later in this action.

The rejection of claims 1 and 27-55 under 35 U.S.C. 102(a) or 102(e) or, in the alternative, under 35 U.S.C. 103(a) based on Yamazaki et al. (US 2003/0124764 A1) is withdrawn in light of the certified translation of applicant's foreign priority application JP 2002-361320 (December 12, 2002).

The examiner has reconsidered the rejection under 35 U.S.C. 103(a) based on King et al. (US 2005/0029931 A1) and withdraws the rejection. The examiner has insufficient information to be able to determine whether the concentration ranges of silicon-containing particles, which are taught by King et al. in terms of mg/ml, would provide a silicon content of  $1 \times 10^{18}$ - $5 \times 10^{20}$

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atoms/cm<sup>3</sup> by SIMS measurement as required by the present claims, or would provide a silicon content sufficiently close to the presently recited range that one of ordinary skill in the art would expect them to have the same properties.

The examiner has also reconsidered the rejection under 35 U.S.C. 103(a) based on JP 09-328680 and withdraws the rejection. While the prior art does not place a particular limit on the concentration of the inorganic substance particles to be combined with the organic luminous agent, all the specific examples in the prior art utilize a concentration of inorganic substance particles that would provide a much higher amount of silicon than the presently claimed range. (Given the teachings in the paragraph bridging pages 23 and 24 of the present specification, the examiner presumes for the sake of argument that the silicon content range as stated in the independent claims in terms of atoms/cm<sup>3</sup> approximately corresponds to the first silicon content range as set forth in the paragraph in terms of atoms%.)

The miscellaneous issue noted in the March 25<sup>th</sup> action is rendered moot by amendment.

4. Claims 27, 28, 30, 33, 34, 36, 39, 40, 42, 45, 46, 48, 51, 52 and 54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 27, 28, 33, 34, 39, 40, 45, 46, 51 and 52 contain the variable “x” which is not defined, thereby rendering the claims indefinite.

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Claims 30, 36, 42, 48 and 54 recite “a quinoline bone structure”, “a benzoxazole bone structure” and “a benzothiazole bone structure”. The scope of these “bone” structures is not clear.

5. Claims 1, 29, 31, 32, 35, 37, 38, 41, 43, 44, 47, 49, 50, 53 and 55 are allowed.

6. Applicant’s amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication should be directed to Marie R. Yamnitzky at telephone number (571) 272-1531. The examiner works a flexible schedule but can generally be reached at this number from 7:00 a.m. to 3:30 p.m. Monday-Friday.

The current fax number for all official faxes is (571) 273-8300. (Unofficial faxes to be sent directly to examiner Yamnitzky can be sent to (571) 273-1531.)

/Marie R. Yamnitzky/  
Primary Examiner, Art Unit 1794

MRY  
November 08, 2008